

REMARKS

This Application has been carefully reviewed in light of the Office Action mailed October 6, 2006. Claims 1-23 were pending in the Application. In the Office Action, Claims 1-23 were rejected. Claims 1-23 remain pending in the Application. Applicant respectfully requests reconsideration and favorable action in this case.

In the Office Action, the following actions were taken or matters were raised:

DECLARATION UNDER 37 C.F.R. § 1.131

In the Office Action, the Examiner indicates that the Declaration filed on July 11, 2006, was considered but deemed ineffective for overcoming a 35 U.S.C. § 102(e) rejection of Claims 1-12 and 14-23 of the present Application over U.S. Patent No. 6,865,680 issued to Wu et al. (hereinafter "Wu"). In particular, the Examiner asserts that Applicant's declaration is ineffective because it does not establish diligence from a date prior to the purported effective date of Wu (October 31, 2000) to either a constructive reduction to practice or an actual reduction to practice (10-6-06/OA, page 2). In particular, the Examiner states:

Based on the submitted Exhibit A; Applicant fails to show the activities between the date of reference of Wu and the application filing date establishing diligence.

(Office Action, page 2). 37 C.F.R. § 1.131 recites that a declaration may be submitted to establish invention of the subject matter of the rejected claims prior to the effective date of a reference provided the declaration includes:

[A] showing of facts . . . in character and weight, as to establish reduction to practice prior to the effective date of the reference, or conception of the invention prior to the effective date of the reference coupled with due diligence from prior to said date to a subsequent reduction to practice or to the filing of the application.

37 C.F.R. § 1.131(b) (emphasis added) (see also M.P.E.P. 715.07). Applicant hereby submits a supplemental Declaration under 37 C.F.R. § 1.131, the exhibit of which (the invention disclosure form attached thereto as Exhibit A) evidences the conception and reduction to practice of the invention prior to the purported effective date of Wu. For example, Exhibit A of the Declaration includes an explanation of the subject matter of the claims of the present application (e.g., at least page 3 (section A), page 5 (section B), and page 6 (section C)). Further, according to Exhibit A of the Declaration, the subject matter of

the claims of the present application was reduced to practice prior to October 31, 2000. For example, Exhibit A of the Declaration (specifically, on page 1 of Exhibit A) indicates that the subject matter of the present application was incorporated into the Hewlett-Packard product "Total-e-Mobile 1.0," and that the Total-e-Mobile 1.0 product was released on a date occurring on or before October 31, 2000. Further, because the inventor of the subject matter of the present invention is unavailable as indicated in the accompanying Declaration, the accompanying Declaration is made pursuant to M.P.E.P. § 715.04 by a duly authorized agent having authority to make a declaration under 37 C.F.R. § 1.131.

Thus, as indicated by the supplemental Declaration and exhibit therewith, diligence "between the date of reference of *Wu* and the application filing date" as recited by the Examiner is not required to be shown by Applicant because an actual reduction to practice of the subject matter of the claims of the present Application occurred prior to the purported effective date of *Wu*. Accordingly, Applicant respectfully submits that *Wu* is not available as a prior art reference.

#### SECTION 102 REJECTIONS

Claims 1-12 and 14-23 were rejected under 35 U.S.C. 102(e) as being anticipated by *Wu*. Applicant respectfully traverses this rejection. As indicated above, *Wu* is not available as a prior art reference. Accordingly, Applicant respectfully requests that the rejection of Claims 1-12 and 14-23 be withdrawn.

#### SECTION 103 REJECTIONS

Claim 13 was rejected under 35 U.S.C. 103(a) as being unpatentable over *Wu* in view of U.S. Patent Publication No. 2001/0027474 issued to Nachman et al. (hereinafter "*Nachman*"). Applicant respectfully traverses this rejection.

Claim 13 depends from independent Claim 8 which the Examiner rejected as being anticipated by *Wu*. At least because *Wu* fails to qualify as prior art against Claim 8, *Wu* also does not qualify as prior art against Claim 13 that depends therefrom. Accordingly, Applicant respectfully requests that the rejection of Claim 8 be withdrawn.

Further, *Nachman* does not appear to remedy the limitations of *Wu* apparently relied upon by the Examiner to reject Claim 13. Therefore, for at least this reason also, Applicant respectfully requests that the rejection of Claim 13 be withdrawn.

**CONCLUSION**

Applicant has made an earnest attempt to place this case in condition for immediate allowance. For the foregoing reasons and for other reasons clearly apparent, Applicant respectfully requests reconsideration and full allowance of all pending claims.

An RCE filing fee (\$790.00) and a Petition for Extension of Time under 37 C.F.R. §1.17(a)(1) for a one (1) month extension (\$120.00) are enclosed hereto. The Director of Patents and Trademarks is hereby authorized to charge Deposit Account No. 08-2025 of Hewlett-Packard Company the amount of \$910.00 to satisfy the RCE filing fee and the extension fee. If, however, Applicant has miscalculated the fee due with this RCE, the Director is hereby authorized to charge any fees or credit any overpayment associated with this RCE to Deposit Account No. 08-2025 of Hewlett-Packard Company.

Respectfully submitted,



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